



Myertons, Hood, Kivlin, Kowert & Goetzel, P.C.
PO Box 398
Austin, TX 78767-0398

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OFFICE OF PETITIONS

In re Application of
Hipp et al.
Application No. 09/680,559
Filed: October 5, 2000

DECISION GRANTING PTA REQUEST

This decision is in response to Applicants' "REQUEST FOR RECONSIDERATION UNDER 37 CFR 1.705(b)" filed on May 26, 2006 requesting that the Patent Term Adjustment be adjusted from a determination six hundred and twenty (620) days to a determination of eight hundred and fifty-one (851) days.

Applicants' request is **GRANTED-in-PART**. The Office will also adjust the PTA calculation reflected in PAIR to reflect this decision. The correct amount of PTA is 852 days.

Applicants argue that the Office erred in determining the amount of PTA. Specifically, applicants assert that the Office missed the requirement of 37 CFR 1.702(a)(1) by a period of 788 days. In addition, applicants assert that the Office missed the requirements of 37 CFR 1.702(a)(2) by a period of one hundred and fifty-eight days. In addition, applicants assert that there was a one day delay pursuant to 37 CFR 1.704(b) by a period of one day and a reduction of 94 days under 37 CFR 1.704(c)(8).

Applicants' argument have been considered and deemed persuasive to the extent herein indicated. . A review of the record reveals that the Office violated 1.702(a)(1) by a period of 789 days (applicant asserted 788). In addition, the Office missed the requirement of 37 CFR 1.702(a)(2) by a period of 159 days (applicant asserts 158 days. The one hundred and fifty nine days is based upon the Office mailing the Office action on June 6, 2004 to the wrong correspondence address.¹ Applicant then remailed the Office action on February 4, 2005. Accordingly, the assessment of one hundred and sixty-eight days against applicant is in error.

Applicants failed to engage in reasonable efforts to conclude prosecution of the application on two occasion. First, the applicant missed the requirements of 37 CFR 1.704(b) on May 3, 2004.

¹The record reflects that applicants filed a new power of attorney and change of address on 5/3/2004.

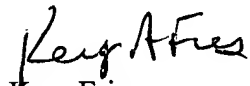
Application No. 09/680,559

In addition, applicants submission of an IDS on August 6, 2004 is considered a failure to engage in any reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(8).² The overall amount of delay is 95 days. Accordingly, the overall amount of PTA at the time of the mailing of the notice of allowance is $(789+159 -1 -95=852)$ eight hundred and fifty-two days.

After the mailing of this Office action, the Office will forward such application to the Office of Patent Publication for a prompt issuance of the patent. Any delays pursuant to 37 CFR 1.702(b) or under 37 CFR 1.704(a)(4) will be reflected in the issue notification letter that is mailed to applicants approximately three weeks prior to issuance of the patent.

The applicants have authorized payment of \$200.00 as the fee. No additional fees are required in determining this PTA application

Any questions concerning this determination should be directed to Kery Fries, Senior Legal Advisor, at 571-272-7757.



Kery Fries
Senior Legal Advisor
Office of Patent Legal Adm.
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted PAIR calculation

²The Office notes that applicants did not make any certification statement pursuant to 37 CFR 1.704(d) that would waive the reduction under 37 CFR 1.704(c)(8).

Day : Friday
Date: 3/16/2007


PALM INTRANET

Time: 14:11:14

PTA Calculations for Application: 09/680559					
Application Filing Date:		10/05/2000	PTO Delay (PTO):		789
Issue Date of Patent:			Three Years:		0
Pre-Issue Petitions:		0	Applicant Delay (APPL):		169
Post-Issue Petitions:		0	Total PTA (days):		852
PTO Delay Adjustment:		232			

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
64	03/16/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	232		
55	03/01/2006	MAIL NOTICE OF ALLOWANCE			
54	02/17/2006	ISSUE REVISION COMPLETED			
53	02/17/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
52	02/17/2006	CASE DOCKETED TO EXAMINER IN GAU			
51	02/16/2006	NOTICE OF ALLOWABILITY			
50	12/16/2005	DATE FORWARDED TO EXAMINER			
49	12/05/2005	RESPONSE AFTER NON-FINAL ACTION			
48	11/08/2005	MAIL NON-FINAL REJECTION			
47	10/24/2005	NON-FINAL REJECTION			
46	09/20/2005	DATE FORWARDED TO EXAMINER			
45	09/14/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
44	09/20/2005	DATE FORWARDED TO EXAMINER			
43	09/14/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
42	09/20/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
41	09/14/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
40	09/02/2005	MAIL ADVISORY ACTION (PTOL - 303)			
39	08/31/2005	ADVISORY ACTION (PTOL-303)			
38	08/24/2005	DATE FORWARDED TO EXAMINER			
37	08/19/2005	AMENDMENT AFTER FINAL REJECTION			
36	07/15/2005	MAIL FINAL REJECTION (PTOL - 326)			
35	07/11/2005	FINAL REJECTION			
34	06/07/2005	CORRESPONDENCE ADDRESS CHANGE			

33	06/07/2005	DATE FORWARDED TO EXAMINER			
32	05/31/2005	RESPONSE AFTER NON-FINAL ACTION			
31	05/31/2005	NEW OR ADDITIONAL DRAWING FILED			
30	04/15/2005	MAIL NON-FINAL REJECTION			
29	04/13/2005	NON-FINAL REJECTION			
28	03/16/2005	DATE FORWARDED TO EXAMINER			
27	02/25/2005	AMENDMENT AFTER FINAL REJECTION		168	17
26	02/25/2005	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
25	02/09/2005	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
24	02/09/2005	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
23	10/13/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22	02/13/2001	REFERENCE CAPTURE ON IDS			
21	08/06/2004	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
20	04/28/2004	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
18	07/14/2004	CASE DOCKETED TO EXAMINER IN GAU			
17	06/10/2004	MAIL FINAL REJECTION (PTOL - 326)			
16	06/09/2004	FINAL REJECTION			
15	05/13/2004	DATE FORWARDED TO EXAMINER			
14	05/03/2004	RESPONSE AFTER NON-FINAL ACTION		1	10
13	05/13/2004	CORRESPONDENCE ADDRESS CHANGE			
12	05/13/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
11	05/03/2004	WORKFLOW INCOMING AMENDMENT IFW			
10	02/02/2004	MAIL NON-FINAL REJECTION	789		-1
9	12/29/2003	NON-FINAL REJECTION			
8	12/12/2003	CASE DOCKETED TO EXAMINER IN GAU			
7	12/04/2003	CASE DOCKETED TO EXAMINER IN GAU			
6	02/13/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	01/30/2001	CASE DOCKETED TO EXAMINER IN GAU			
4	12/08/2000	APPLICATION DISPATCHED FROM OIPE			
3	11/30/2000	CORRESPONDENCE ADDRESS CHANGE			
2	11/09/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			

1	10/05/2000	INITIAL EXAM TEAM NN			
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Search Another: Application#

EXPLANATION OF PTA CALCULATION

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